

Statement of
W. Richard West
Immediate Past Chair of the Board
American Association of Museums
and
Director
National Museum of the American Indian

On the Native American Graves Protection and Repatriation Act
(P.L. 101-601)

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Mr. Chairman and members of the Committee: I am W. Richard West, immediate past chair of the board of directors of the American Association of Museums, and director of the Smithsonian Institution's National Museum of the American Indian. Thank you for the opportunity to present testimony on behalf of the American Association of Museums on the Native American Graves Protection and Repatriation Act (NAGPRA).

American Association of Museums (AAM) represents the broad range of museums, from aquaria, art and history museums to science-technology centers, natural history museums and zoos, with more than 16,400 members of which about 11,000 are museum paid staff or volunteers, 2,000 are independent professionals and suppliers to the museum community, and 3,000 are museums.

As you know, we now have ten years of experience with NAGPRA. It is an instrument of compromise, created through the best collective efforts of museum people working closely with Native Americans, anthropologists, universities and others. As a compromise, it is not a perfect law for any of the affected parties, but on the whole it has worked well. I think all the parties to the law have found that the repatriation process has been much more demanding, complicated and costly than anyone had expected. But museums and tribes have both benefited greatly by the process. In particular, they have set up collaborations that have provided museums with new understanding of the significance of their collections and tribes with awareness of important objects of whose continued existence they may not have known.

Since 1990, museums have worked very hard to honor not only the letter but also the spirit of the law. Here are several examples of how the repatriation process has affected a number of museums in recent years.

The Buffalo Bill Historical Center (Cody, Wyoming).

Since 1979, when the Plains Indian Museum at the Buffalo Bill Historical Center was opened, the Director and Board of Trustees have taken a cooperative approach to working with Plains and other Native people. In 1976 an Advisory Board was established consisting of representatives from Plains tribes that guided the content and design of the Museum. Prior to the establishment of NAGPRA, one object of ceremonial importance had been returned to a tribe, and intermittent visits were made by tribal members to study the Museum's collections.

In 1991, a policy related to the care, exhibition, and repatriation of culturally sensitive objects was developed by the curator and Advisory Board members and endorsed by the Historical Center Board of Trustees. This policy not only outlined a

process of complying with NAGPRA requirements but also officially addressed other concerns and procedures related to the handling of sacred objects. Although numbers of tribal visits and consultations have occurred in the past ten years, to date there have been three requests for repatriation. Probably more meaningful are the exchanges of information that have taken place between Museum staff and tribal members which have brought about informed traditional care of collection objects for the Museum and assistance in cultural preservation projects for the tribes. On June 17, the Plains Indian Museum opened newly installed galleries that reflect the Museum's philosophy of cooperation and recognition of the roles of Native people in telling their own stories related to collections.

The Peabody Museum of Archaeology and Ethnology (Harvard University, Cambridge, Massachusetts)

The Peabody Museum is one of a handful of museums with an usually large number of human remains. It is on schedule with its mandate from the Department of Interior to complete 60% of its inventory of an estimated 11,587 human remains by the end of April 2000, having completed inventory of 62% by that date, and it expects to meet the October 2000 goal of 80% completion. The museum continues to employ 18 personnel in addition to its regular staff in order to meet the requirements of the consultation process and the production of final reports.

Over the 6-month period from November 1999 to April 2000, the museum's staff worked on human remains and funerary objects from fifteen states, having 1,681 consultative interactions with 163 tribes or consortia of tribes. The accelerated timetable in the Department of Interior mandate and lack of funding, however, prevented consultation visits during this period. Responding to requests from some tribal NAGPRA officers for more consultation, the museum has committed to additional significant consultation with these tribes, to allow more time for the museum and the tribes to exchange more precise information about cultural affiliation of human remains and objects.

The Natural History Museum of Los Angeles County

Between NAGPRA passage and 1998, when the museum completed its inventory on a three year extension, its Anthropology staff devoted about one-third of its staff time to NAGPRA activities. Since enactment of the law, virtually all of the collection management activity in those parts of the museum has been devoted to its North American collections, allowing almost no time for management of its extensive collections from elsewhere. Except for a single \$38,000 National Park Service grant, all funding for this effort came from the museum itself.

In the course of this effort, museum staff were visited for consultations by, or went on visits to, 13 Native groups; these visits lasted from 1 - 3 days each. The museum also wrote letters of support to assist 7 tribal groups to get federal funding. In addition, it

returned a number of remains and/or artifacts that had been on long-term loan from other institutions (both museum and federal agency) so the record-owner institution could complete its NAGPRA process for the artifacts. By 1998, the museum had completed 9 inventories, of which NPS has published 8. The published inventories have resulted in 5 repatriations, including 3 to a Native Hawaiian group, representing a total of human remains of 155 individuals, plus 814 associated funerary objects.

One example of the cooperation engendered in the museum's repatriation process involved the Coquille tribe. The museum had in its collection artifacts from Oregon which museum staff could not affiliate because the objects had been received long ago with minimal records. A recently recognized tribe, the Coquille, visited the museum as part of their own ethnographic efforts and were able to provide museum staff with significant additional documentation (maps, pioneer diaries, a tribal linguistic expert, etc.). Museum staff also consulted with 3 other tribes in the area to confirm the likely Coquille affiliation, a process that took approximately 3 weeks of full-time work for the museum's Curator of Anthropology and collection manager. The excellent cooperation of all involved culminated in the museum's affiliation of the objects with the Coquille and identification of the objects as associated funerary objects. After museum staff repatriated the artifacts, they received a letter from the Coquille expressing the tribe's appreciation and confirming that it had reburied the artifacts in accordance with its traditions.

I would also like to say a few words about the museum that I direct, the National Museum of the American Indian (NMAI.) Of the approximately 1,600 objects that NMAI has repatriated to the tribes, the majority have been human remains and funerary objects. NMAI currently has approximately three hundred human remains in its possession, representing an estimated seventy-five indigenous groups. Our priority is to repatriate all those human remains and their associated funerary objects to their respective indigenous communities, both domestic and international. We project the repatriation of all human remains by the end of 2003.

Concurrent with the repatriation of human remains and associated funerary objects, the NMAI Repatriation Office is processing and researching tribal claims for sacred and ceremonial objects, and objects of cultural patrimony. We are currently preparing for returns to twelve indigenous communities in Nevada, Arizona, Colorado, South and North Dakota, British Columbia, Alaska, Montana, Alberta, and Oklahoma.

In the course of our work on repatriation, we are seeing more and more tribes working together for return of cultural materials and human remains. Tribes are also looking increasingly to Federal agencies for help in re-interment. As you know, many tribes originally from the southern and eastern parts of the United States were re-located. In some cases, tribes are looking to re-inter on their original lands, some of which are now privately owned or Federally owned, and they are seeking help from Federal agencies to re-inter on Federal land that is on or near to the tribe's original lands. NMAI has been

pleased to help facilitate some of these discussions.

Despite this progress in museum and tribal actions on repatriation, there are several current hindrances in the repatriation process relating to funding which need to be cleared away. One of those is the slow rate of publication of notices of NAGPRA inventories in the *Federal Register*. We understand that there is currently a backlog of more than a year's worth of notices, despite the best efforts of National Park Service staff. In fact, we understand that of the roughly 700 notices submitted, about half are still not published. The President's budget request would provide for a \$400,000 increase for general NAGPRA funding, which would allow an increase of staff by five to help process the notices. The museum community strongly urges that additional funds be provided for this purpose.

A second hindrance is insufficient funding for the NAGPRA grant program, which is to assist museums and tribes in the repatriation process.

The need continues to be great. In 1994, AAM conducted a repatriation survey of 500 of its member institutions, including all of its natural history museums and a selected sample of its art and history museums. Of the 43.6 % that responded, 76% of the natural history museums, 43% of the history museums and 23% of the art museums had Native American objects. Those respondents—a little more than 200—alone had almost 3.5 million objects which fell into NAGPRA categories, and that did not include 15 responding natural history museums, including 3 large institutions, which could not, at that time, give an accurate estimate of their NAGPRA-related holdings.

In contrast, in October 1990, at the time of the passage of NAGPRA, the Congressional Budget Office had estimated NAGPRA implementation costs to museums of only \$40 million and to tribes and Native Hawaiian organizations of \$5-10 million over 5 years, assuming that museums and federal agencies held between 100,000 and 200,000 Native American remains and that the cost to inventory and review each remain would be \$50-100. Those estimates now appear to be very low in light of our experience since that time.

In the FY2000 grants round, many projects judged worthwhile could not be recommended for funding because of the limited funds available. The Park Service received 111 proposals requesting over \$6 million but was able to fund only 42 with the \$2.25 million available, plus a reserve amount to fund repatriation requests during FY2000 at smaller dollar amounts. The 42 awards were divided between 13 grants to 13 museums, totaling \$617,210, and 29 grants to 26 tribes, totaling \$1,574,250. Without increased funding to support projects judged worthy, both museums and tribes are hindered in their efforts to make timely progress in the repatriation process and to deal with issues that arise, such as abatement of pesticides in repatriated objects. The museum

community strongly urges that additional funding be provided here as well.

Thank you for the opportunity to testify on this issue. I would be happy to respond to any questions you might have.